



February 23, 2007

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## SENATE BILL No. 88

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DIGEST OF SB 88 (Updated February 21, 2007 11:28 am - DI 102)

**Citations Affected:** IC 5-10.2; IC 5-10.4.

**Synopsis:** Teacher reemployment after retirement. Removes the earnings limitation for a member of the teachers' retirement fund (TRF) who is reemployed more than 90 days after the member's retirement in a TRF covered position. Provides that neither the retired member nor the member's employer makes contributions to TRF for the period of the member's reemployment. Provides that the member does not earn creditable service in TRF and is not entitled to an additional benefit from TRF for the period of reemployment.

**Effective:** July 1, 2007.

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### Weatherwax, Drozda

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January 8, 2007, read first time and referred to Committee on Rules and Legislative Procedure.

January 29, 2007, amended; reassigned to Committee on Pensions and Labor.

February 22, 2007, amended, reported favorably — Do Pass.

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SB 88—LS 6277/DI 13+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 88

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10.2-2-11, AS AMENDED BY P.L.246-2005,  
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 11. (a) Based on the actuarial investigation and  
4 valuation in section 9 of this chapter, each board shall determine:

5 (1) the normal contribution for the employer, which is the amount  
6 necessary to fund the pension portion of the retirement benefit;

7 (2) the rate of normal contribution;

8 (3) the unfunded accrued liability of the public employees'  
9 retirement fund, the pre-1996 account, and the 1996 account,  
10 which is the excess of total accrued liability over the fund's or  
11 account's total assets, respectively; and

12 (4) the rates of contribution for the state expressed as a proportion  
13 of compensation of members, which would be necessary to:

14 (A) amortize the unfunded accrued liability of the state for  
15 thirty (30) years or for a shorter time period requested by the  
16 budget agency or the governor; and

17 (B) prevent the state's unfunded accrued liability from

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1 increasing.

2 (b) Based on the information in subsection (a), each board may  
3 determine, in its sole discretion, contributions and contribution rates for  
4 individual employers or for a group of employers.

5 (c) The board's determinations under subsection (a):

6 (1) are subject to section 1.5 of this chapter; and

7 **(2) for an employer making a contribution to the Indiana state**  
8 **teachers' retirement fund, may not include an amount for a**  
9 **retired member of the Indiana state teachers' retirement fund**  
10 **for whom the employer may not make contributions during**  
11 **the member's period of reemployment as provided under**  
12 **IC 5-10.2-4-8(e).**

13 SECTION 2. IC 5-10.2-3-1, AS AMENDED BY P.L.2-2006,  
14 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2007]: Sec. 1. (a) **Except as provided under**  
16 **IC 5-10.2-4-8(e)**, each member's creditable service, for the purpose of  
17 computing benefits under this article, consists of all service in a  
18 position covered by a retirement fund plus all other service for which  
19 the retirement fund law gives credit.

20 (b) No member may be required to pay any contributions for service  
21 before the member is covered by this article as a condition precedent  
22 to receiving benefits under this article. However, the member must  
23 furnish proof of the service to the board of the fund under which the  
24 member claims service.

25 (c) A member who has past service as an employee of the state or  
26 a participating political subdivision in a position which was not  
27 covered by the retirement fund is entitled to credit for this service if the  
28 position becomes covered before January 1, 1985, by the Indiana state  
29 teachers' retirement fund, the public employees' retirement fund, or the  
30 retirement fund for the state board of accounts and if the member  
31 submits proof of the service to the secretary of the fund in which the  
32 member claims service.

33 (d) A member who has past service in a position that was not  
34 covered by the retirement fund is entitled to credit for this service if the  
35 position becomes covered after December 31, 1984, by a fund while  
36 the member holds that position or another position with the same  
37 employer and if the member submits proof of the service to the director  
38 of the fund in which the member claims service.

39 (e) The proof required by this section must:

40 (1) be submitted in a form approved by the director;

41 (2) contain dates and nature of service and other information  
42 required by the director; and

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(3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the PERF board or the TRF board shall include the participant's service in the general assembly in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 5-10.4-4-4. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 3. IC 5-10.2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

- (1) the basic salary earned by and paid to the member; plus
- (2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

- (1) the contribution is made on behalf of the member; or
- (2) **a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);**

each member shall, as a condition of employment, contribute to the fund three percent (3%) of his compensation.

(c) **Except as provided under IC 5-10.2-4-8(e)**, a member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total

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1 amount of contributions that may be made to a member's annuity  
 2 savings account with respect to a payroll period under this subsection  
 3 may not exceed ten percent (10%) of the member's compensation for  
 4 that payroll period. The contributions made under this subsection may  
 5 be picked-up and paid by an employer as provided in subsection (d).

6 (d) In compliance with rules adopted by each board, an employer,  
 7 under Section 414(h)(2) of the Internal Revenue Code, may pick-up  
 8 and pay the contributions under subsection (c), subject to approval of  
 9 the board and to the board's receipt of a favorable private letter ruling  
 10 from the Internal Revenue Service. The employer shall reduce the  
 11 member's compensation by an amount equal to the amount of the  
 12 member's contributions under subsection (c) that are picked-up by the  
 13 employer. Each board shall by rule establish the procedural  
 14 requirements for employers to carry out the pick-up in compliance with  
 15 Section 414(h)(2) of the Internal Revenue Code.

16 (e) A member's contributions and interest credits belong to the  
 17 member and do not belong to the state or political subdivision.

18 SECTION 4. IC 5-10.2-3-3 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a) This section**  
 20 **does not apply to a member of the Indiana state teachers'**  
 21 **retirement fund who, after June 30, 2007, is reemployed more than**  
 22 **ninety (90) days after the member's retirement in a position**  
 23 **covered by the Indiana state teachers' retirement fund.**

24 ~~(a)~~ **(b)** Members' contributions, other than members' contributions  
 25 paid on behalf of a member, shall be deducted from their compensation  
 26 even if the net compensation to the member is less than the statutory  
 27 minimum.

28 ~~(b)~~ **(c)** The payment of a member's compensation minus the  
 29 deduction constitutes a complete discharge of all claims for services  
 30 rendered by the member during the period covered by the payment,  
 31 except the claim for benefits under this article.

32 SECTION 5. IC 5-10.2-4-8, AS AMENDED BY P.L.62-2005,  
 33 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2007]: Sec. 8.(a) As used in this section, "exempt amount"  
 35 means, in the case of a member who has not attained the Social  
 36 Security normal retirement age for unreduced benefits, thirty-five  
 37 thousand dollars (\$35,000), computed for the calendar year in which  
 38 a retired public employees' retirement fund member is reemployed and  
 39 computed for the fiscal year in which a retired teachers' retirement fund  
 40 member is reemployed.

41 (b) This subsection does not apply to a member who is employed by  
 42 the department of education **or after June 30, 2007, to a member of**

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1 **the Indiana state teachers' retirement fund who is reemployed**  
 2 **more than ninety (90) days after the member's retirement in a**  
 3 **position covered by the Indiana state teachers' retirement fund.** If  
 4 a member who is receiving retirement benefits and who has not  
 5 attained the Social Security normal retirement age for unreduced  
 6 benefits:

7 (1) becomes reemployed in a position covered by this article; and

8 (2) earns in that position more than the exempt amount;

9 his retirement benefit payments shall stop, and the member shall begin  
 10 making contributions as required in IC 5-10.2-3-2. However, employer  
 11 contributions shall be made throughout the period of reemployment.  
 12 The earnings limitation under this subsection does not apply to a  
 13 member who has attained the Social Security normal retirement age for  
 14 unreduced benefits.

15 (c) If a member who is receiving retirement benefits is reemployed  
 16 in a position covered by this article not more than ninety (90) days after  
 17 the member's retirement, the member's retirement benefits shall stop,  
 18 the member shall begin making contributions as required by  
 19 IC 5-10.2-3-2, and employer contributions shall be made throughout  
 20 the period of reemployment.

21 (d) **This subsection does not apply after June 30, 2007, to a**  
 22 **member of the Indiana state teachers' retirement fund who is**  
 23 **reemployed more than ninety (90) days after the member's**  
 24 **retirement in a position covered by the Indiana state teachers'**  
 25 **retirement fund.** If a retired member is reemployed in a position  
 26 covered by this article, section 10 of this chapter applies to the member  
 27 upon the member's retirement from reemployment.

28 (e) **The following apply to a member of the Indiana state**  
 29 **teachers' retirement fund who, after June 30, 2007, is reemployed**  
 30 **more than ninety (90) days after the member's retirement in a**  
 31 **position covered by the Indiana state teachers' retirement fund:**

32 (1) **The member's retirement benefit payments continue**  
 33 **during the member's period of reemployment without regard**  
 34 **to the amount of the member's earnings from the covered**  
 35 **position.**

36 (2) **The member may not make contributions under**  
 37 **IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period**  
 38 **of reemployment.**

39 (3) **The member's employer may not make contributions**  
 40 **under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the**  
 41 **member during the member's period of reemployment.**

42 (4) **The member does not earn creditable service under**

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1 **IC 5-10.2-3-1 for the member's period of reemployment.**

2 **(5) The member is not entitled to an additional benefit under**  
 3 **sections 9 and 10 of this chapter for the member's period of**  
 4 **reemployment.**

5 SECTION 6. IC 5-10.2-4-9 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. **(a) This section**  
 7 **does not apply after June 30, 2007, to a member of the Indiana**  
 8 **state teachers' retirement fund who is reemployed more than**  
 9 **ninety (90) days after the member's retirement in a position**  
 10 **covered by the Indiana state teachers' retirement fund.**

11 **(b)** If a member dies during reemployment and retirement benefits  
 12 from before his reemployment are payable after his death, the payment  
 13 of these amounts shall be made without change, and any additional  
 14 benefit earned during reemployment shall be paid as provided in  
 15 section 10 of this chapter.

16 SECTION 7. IC 5-10.2-4-10 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. **(a) This section**  
 18 **does not apply after June 30, 2007, to a member of the Indiana**  
 19 **state teachers' retirement fund who is reemployed more than**  
 20 **ninety (90) days after the member's retirement in a position**  
 21 **covered by the Indiana state teachers' retirement fund.**

22 ~~(a)~~ **(b)** Benefits provided under this section are subject to  
 23 IC 5-10.2-2-1.5.

24 ~~(b)~~ **(c)** Upon termination of reemployment, except by death, the  
 25 retirement benefits from before the member's reemployment which are  
 26 payable after termination shall be paid without change.

27 ~~(c)~~ **(d)** If the member is reemployed for fewer than ninety (90)  
 28 consecutive school or working days, upon termination of  
 29 reemployment, contributions and interest credited to the member's  
 30 annuity savings account shall be paid to the member.

31 ~~(d)~~ **(e)** If the member is reemployed for ninety (90) or more  
 32 consecutive school or working days, upon termination of  
 33 reemployment, the member shall receive an additional benefit.

34 ~~(e)~~ **(f)** The additional retirement benefit consists of the sum of a  
 35 supplemental pension and a supplemental annuity. The supplemental  
 36 pension is computed under section 4 of this chapter using the  
 37 member's:

- 38 (1) years of service during the member's reemployment; and
- 39 (2) average compensation during the member's reemployment, if
- 40 the member is reemployed for less than five (5) years, or average
- 41 of the annual compensation (as defined in section 3 of this
- 42 chapter) during the member's reemployment.

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If the member is entitled to a supplemental annuity, it consists of an annuity provided by contributions and interest credited to the member during reemployment, if any.

~~(f)~~ **(g)** The additional retirement benefits are guaranteed for five (5) years or until the member's death, whichever is later. The member may choose instead of the guaranteed payments any of the options under section 7 of this chapter for the payment of the member's additional retirement benefits.

~~(g)~~ **(h)** IC 5-10.2-2-7 applies to additional retirement benefits.

SECTION 8. IC 5-10.4-4-11, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. **(a) This section does not apply after June 30, 2007, to a member who is reemployed more than ninety (90) days after the member's retirement in a position covered by the fund.**

~~(a)~~ **(b)** Each member shall contribute to the fund three percent (3%) of the member's compensation as set forth in IC 5-10.2-3. However, the member's employer may pay the contribution on behalf of the member.

~~(b)~~ **(c)** If a member's employer elects to pay the members' contributions for its employees, the employer must initiate the payments as part of salary and fringe benefit adjustments provided to these employees.

SECTION 9. IC 5-10.4-5-13, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) IC 5-10.2-4-8, IC 5-10.2-4-9, and IC 5-10.2-4-10 apply to the reemployment of a retired member.

**(b) This subsection does not apply after June 30, 2007, to a member who is reemployed more than ninety (90) days after the member's retirement in a position covered by the fund.** For a retired member who withdraws from retirement status, resumes teaching, and again retires, the board shall pay the member, after the member's second or subsequent retirement, a monthly retirement benefit at least equal to the highest amount the retired member has received as a retirement benefit.

SECTION 10. IC 5-10.4-7-1, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The administrative officers of a school corporation or other institution covered by the fund shall:

- (1) notify each person to be employed in a teaching position that the person's obligations under this article are a condition of employment; and
- (2) make the obligations a part of the teacher's contract.

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(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

**(2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);**

a teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state.

SECTION 11. IC 5-10.4-7-3, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Unless the member's contribution is made on behalf of the member **or the member is a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e)**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall:

(1) deduct from each member's salary the member's contribution for the fund; and

(2) issue to each member, on behalf of the board, a statement for each contribution deducted.

(b) The statement described in subsection (a)(2) is evidence that the member has credit from the fund for payment of the stated contribution.

SECTION 12. IC 5-10.4-7-7, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding reporting period, except substitute teachers;

(2) the total salary and other compensation paid for personal services to each member in the reporting period;

(3) the sum of contributions made for or by each member, **except for a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);**

(4) the sum of employer contributions made by the school corporation or other institution, **except for a retired member for whom or on whose behalf an employer may not make**

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1        **contributions during a period of reemployment as provided**  
2        **under IC 5-10.2-4-8(e);**

3        (5) the number of days each member received salary or other  
4        compensation for teaching services; and

5        (6) any other information that the board determines necessary for  
6        the effective management of the fund.

7        (c) As often as the board determines necessary, the board may  
8        review or cause to be reviewed the pertinent records of any public  
9        entity contributing to the fund under this article.

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SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 88 and that Senator Weatherwax be substituted therefor.

LONG

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 88, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Pensions and Labor.

(Reference is to SB 88 as introduced.)

LONG, Chairperson

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SENATE MOTION

Madam President: I move that Senator Drozda be added as coauthor of Senate Bill 88.

WEATHERWAX

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 88, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning

SB 88—LS 6277/DI 13+



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pensions.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 88 as printed January 30, 2007.)

KRUSE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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